

Twelve Mantras for Making Smart Legal Technology Decisions

By Marc Lauritsen

March 29, 2011

When lawyers perform client work, they focus like nobody's business. But when you lock them in a conference room, and ask them to choose a new document management system, practice management system, or some other technology, many lawyers will agree to just about anything to escape. However, technology decisions ultimately impact your firm's ability to perform work for its clients. Thanks to knowledge system architect Marc Lauritsen it need not be a painful or thankless process. In this TechnoFeature, Marc lays out a dozen recommended practices for making sound technology choices. You'll learn how to isolate essential features, evaluate vendors, prevent groupthink, and much more.

INTRODUCTION

My last *TechnoFeature* article (*Choice Management: Techniques and Tools for Making Better Decisions*) focused on technologies that help with decisions. Opportunities abound for better tools and collaborative environments in that area.

I described four kinds of decisions: (1) those made by rules or formulas, (2) those reached in negotiations with opponents or counterparties, (3) those that involve assessments of probabilities, and (4) those that require trading off pros and cons of options.

This article deals with decisions about technology, such as soft-

ware and vendor selections, which primarily are of the fourth type. While specialized tools can help there as elsewhere, many decision-process improvements are conceptual and methodological rather than technological.

ZEN AND THE ART OF CHOICE

Does this scenario sound familiar? You're part of a group of busy legal professionals who find themselves having to make a technology decision. Which version of Office should we buy? Which practice management system should replace the legacy system that no one can figure out how to maintain? Which document assembly platform makes most sense for us? Should we stick with our current backup solution or migrate to one now being trumpeted as superior?

I've witnessed a lot of technology selection processes at law firms, legal departments, and nonprofits. Unsystematic is usually one of the nicer things you can call them.

Often participants are distracted or unprepared. They make compromises just to get through the process. When different business disciplines are involved, conversations sound like the Tower of Babel. Methods seem reinvented for each decision and resisted by some participants. Many of us bring shockingly little mastery to such a common activity.

Below you'll find 12 best practices — or better yet Mantras (words

considered capable in some spiritual traditions of "creating transformation") — to consider as you approach technology decisions. Some of these ideas stem from the "Choosing Smarter" chapter in my recently-published American Bar Association book, *Lawyer's Guide to Working Smarter with Knowledge Tools*.

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1. Wake Up

First, be a reflective practitioner. Don't sleepwalk. Be mindful. Notice what is happening as you wrap your mind around the issues. There's a lot more going on than meets the eye. Don't just think about what you're choosing. Think about how you're choosing.

2. Embrace the Complexity

Selections are usually attacked by identifying and weighing considerations that differentiate options. Such considerations can number in the hundreds. People will often disagree about both the relative

priority of considerations and the relative goodness of options on given ones. Just keeping track of the facts and opinions in play can prove a major undertaking.

Like many cognitive activities, decision making involves a lot of metaknowledge. You need to know what you need to know, and who knows what.

Most decisions are so complex that we use shortcuts to cope with them, even if we don't admit it. Avoid that tendency. As Oliver Wendell Holmes advised, seek "simplicity on the other side of complexity."



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3. *Separate the Separable*

Fortunately, it turns out that some aspects of choice making can be cleanly separated, at least temporarily. Separate how much you care about ways in which options differ from how well the options perform on the things you care about. At least in early stages, focus on goals more than options, on why more than which.

Separate qualifying features (true "requirements") from those on which options vary by degree. Combining "must have" and comparative aspects tends to conflate two ideas best tracked separately. Must-haves are either/or. Other factors involve relative betterness.

4. *Be Humble*

Psychologists have identified dozens of decisional fallacies. For example, there is the "diagnostic bias" — once we label something, we resist contradicting evidence. We give disproportionate weight to aspects of a situation that spring easily to mind ("availability"). We latch onto mentioned quantities, even if irrelevant ("anchoring"). We react differently when the exact same choice is presented in terms of avoiding a loss rather than realizing a gain ("framing").

Some people are reasonably good at making gut decisions; others delude themselves into thinking they are. Acknowledge your limits.

5. *Plan the Work*

Many of us have seen decisions in which an awful process led to a decent result, and others in which a wholly admirable process resulted in folks later asking "what were we thinking?!" Great processes don't guarantee success. But poorly planned ones rarely work out well.

The formality and intensity of your process of course will depend on things like how consequential the choice is, how reversible it is, how unsure you are about the options and factors, and whether you need to account to someone or document the rationale.

Even if some improvisation is inevitable, don't just make it up as you go along. The order in which you proceed matters. Think through the dependencies. To conduct meaningful review sessions with vendors, for instance, your team should already be familiar with the landscape of differentiating features.

Many structured methods exist that involve requirements analysis, use cases, requests for information, competitive bids, balanced score cards, etc. Make it your business to understand the alternatives.

And right-size the process for your particular needs. Part of right-sizing is keeping the process to a reasonable duration. Don't drag it out. Aim to finish close to when you're ready to act so it doesn't get stale. Compress the process so participants retain focus and the world doesn't change too much in the middle. But don't rush either. Leave time for reflection.

6. *Work the Plan*

Making a decision is a project. It deserves management like any other kind of project.

Give explicit project management responsibility to someone with experience in that role.

It's not insignificant that we talk about "making" choices. More is involved than simply "reaching" a decision; there is a process of collaborative construction. A good choice has a solid foundation.



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7. *Consider Multiple Perspectives*

Welcome the different views people bring. Consider what the choice looks like to stakeholders, whether or not they are directly involved in the selection. What degrees of

importance do they attach to the considerations in play?

Systematic decision making hardly needs to ignore subjective and emotional considerations. Differences of opinion and clashes of gut instincts deserve exploration, not suppression.

You can learn a lot about vendors by interacting with them in the selection process.

8. Tap the Team

Teams can compound the difficulty of choice making, but also enrich insights. Most of us are open to being persuaded by colleagues. Especially when we feel heard ourselves.

Encourage people to work independently on their assessments and priorities at least part of the time to avoid groupthink. Beware of the self-fulfilling phenomenon of deferring to people just because they seem to know better.

9. Enlist the Contenders

The people behind options have a natural stake in highlighting considerations that favor their offerings. And they have a rational self interest in you not choosing them when

they are not a good match for your needs. Enlist them to help build your decision framework and assess competitors. Tell them whom else you are considering and invite suggestions on criteria you may be neglecting.

You can learn a lot about vendors by interacting with them in the selection process. Do they promptly return calls and email messages? Are they hard to deal with in settling preliminary arrangements? Are they candid about ways in which their offering may fall short?

10. Tool Up

Evolution did not equip humans with a particularly robust mental apparatus for balancing more than a couple factors at a time. Making reason-based choices in nontrivial cases is an unnatural act.

Software applications can act as cognitive prostheses. You can perform basic weighted factor analysis using Word tables. Multiple perspective versions can be implemented as three-dimensional spreadsheets in Excel. Some people find mind maps and flow charts handy. There are also specialized decision support packages on the market.

11. Focus

Even with the best tools, the welter of facts, opinions, and arguments can be overwhelming. Narrow your

focus to differences that make the most difference.

It almost always turns out that there are only a few factors on which the options differ by very much in ways that you care about very much. Identify those factors to frame the critical tradeoffs.

12. Stay Open

Keep an open mind. Prepare to be educated. Expect your sense of what you care most about, and how you assess the options, to keep evolving.

Avoid premature attachments. Seek out reasons to support options you've ranked low, or to downgrade ones you're instinctively drawn to. Run through possible fallacies you might have fallen prey to before reaching a conclusion.

CONCLUSION

Choosing is hard work. A well designed and executed approach improves the odds of an optimal outcome, and makes the experience more satisfying for all concerned. By self-consciously "working on the work" you will find opportunities to improve it. My suggestions here may sound like platitudes. But try taking them to heart the next time you find yourself involved in a technology choice. And consider what mantras you would recommend for those who want to gain mastery in the art of choosing.

Marc Lauritsen is president of [Capstone Practice Systems](#) and of [Legal Systematics](#). He helps law firms, legal departments, and other organizations design and build knowledge systems. Marc has served as a poverty lawyer, taught in and directed the clinical program at Harvard Law School, and performed path-breaking work on document automation and artificial intelligence. He's a fellow of the [College of Law Practice Management](#) and co-chairs the [American Bar Association's eLawyering Task Force](#). Follow him on Twitter at [@marclauritsen](#).

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